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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/624,252	07/24/2000	Bernd Schottker	1384.1038 (JDH)	6211

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EXAMINER

KUNEMUND, ROBERT M

ART UNIT

PAPER NUMBER

1765

DATE MAILED: 12/06/2001

8

Please find below and/or attached an Office communication concerning this application or proceeding.

MF-8

Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☐ Responsive to communication(s) filed on _____.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1+08 is/are pending in the application.
Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1+08 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____.

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

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The Rejections

Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claim is indefinite for failing to particularly point out and distinctly claim the invention. The claim recites the phrase, (e.g.) and it is unclear if the claim is to be limited solely to the examples or encompasses more phases. Correction/clarification is required.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1 to 4 and 6 to 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ambacher et al.

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The Ambacher et al reference teaches a method for the growth of a nitride layer on a substrate. A sapphire substrate is placed in a chamber and source gases of the layer are flowed into the chamber. The gases decompose over the substrate and grow a nitride layer on the substrate. The substrate temperature is changed during the growth of the layer. The reference teaches that the change in the growth temperature changes the growth characteristics, note pages 3433-3535. The sole difference between the instant claims and the prior art is the continuous growth. However, in the absence of unobvious results, it would have been obvious to one of ordinary skill in the art to determine through routine experimentation the optimum, operable growth conditions in the Ambacher et al reference in order to grow a uniform layer, noting the reference does not teach disrupting growth.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ambacher et al.

The Ambacher et al reference is relied on for the same reasons as stated, supra, and differs from the instant claim in the temperature change rate. However, in the absence of unobvious results, it would have been obvious to one of ordinary skill in the art to determine through routine experimentation the optimum, operable temperature change in the Ambacher et al reference in order to maintain a high quality crystalline film.


Examiner's Remarks

The remaining references are merely cited of interest as showing the state of the art.

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Any inquiry concerning this communication should be directed to Robert
Kunemund at telephone number 703-308-1091.

RMK


ROBERT KUNEMUND
PRIMARY EXAMINER